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No

P.L. 1999, CHAPTER 222, *approved September 22, 1999*
Senate, No. 1133 (*First Reprint*)

1 **AN ACT** allowing the self-employed to deduct health insurance costs
2 under the gross income tax, supplementing Title 54A of the New
3 Jersey Statutes and amending N.J.S.54A:3-3.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) A taxpayer who is a "self-employed individual"
9 within the meaning of clause (B) of paragraph (1) of subsection (c) of
10 section 401 of the federal Internal Revenue Code of 1986, 26
11 U.S.C.s.401, ¹and a taxpayer treated as such a "self-employed
12 individual" under that section pursuant to section 1372 of the federal
13 Internal Revenue Code of 1986, 26 U.S.C.s.1372,¹ shall be allowed to
14 deduct from the taxpayer's gross income an amount equal to the
15 amount paid during the taxable year for insurance which constitutes
16 medical care for the taxpayer, the taxpayer's spouse, and dependents;
17 provided however, that the amount of such deduction shall not exceed
18 the taxpayer's "earned income," as defined pursuant to subsection (c)
19 of section 401 of the federal Internal Revenue Code of 1986, 26
20 U.S.C.s.401, derived by the taxpayer from the trade or business with
21 respect to which the plan providing the medical care coverage is
22 established, and provided further that no deduction shall be allowed
23 for coverage of any month for which the taxpayer is eligible to
24 participate in any subsidized health plan maintained by any employer
25 of the taxpayer or of the spouse of the taxpayer.
26

27 2. N.J.S.54A:3-3 is amended to read as follows:

28 54A:3-3. Medical expenses. (a) Each taxpayer shall be allowed to
29 deduct from the taxpayer's gross income medical expenses for the
30 taxpayer, the taxpayer's spouse, and the taxpayer's dependents with
31 respect to such expenses that were paid during the taxable year and to
32 the extent that such medical expenses exceed 2% of the taxpayer's
33 gross income. In the case of a nonresident, gross income shall mean
34 gross income which such nonresident would have reported if the
35 taxpayer had been subject to tax during the entire taxable year as a
36 resident.

37 (b) Special Rule for Decedents.

38 (1) Treatment of expenses paid after death. Expenses for the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted March 18, 1999.

1 medical care of the taxpayer which are paid out of the taxpayer's
2 estate during the one-year period beginning with the day after the day
3 of the death shall be treated as paid by the taxpayer at the time
4 incurred.

5 (2) Limitation. Paragraph (1) shall not apply if the amount paid is
6 not allowable as a deduction in computing medical expense deductions
7 for federal income tax purposes.

8 (c) Disallowance of amounts allowed for other purposes.

9 (1) Any expenses allowed as a deduction of expenses for household
10 and dependent care services necessary for gainful employment shall
11 not be allowed as an expense paid for medical care for purposes of this
12 section.

13 (2) Any amounts paid or distributed out of a medical savings
14 account that are excluded from gross income pursuant to section 5 of
15 P.L.1997, c.414 (C.54A:6-27) shall not be allowed as an expense paid
16 for medical care for purposes of this section.

17 (3) Any amounts allowed as a deduction for the health insurance
18 costs of the self-employed pursuant to section 1 of P.L. _____, c.
19 (C. _____) (now pending before the Legislature as this bill) shall not be
20 allowed as an expense paid for medical care for purposes of this
21 section.

22 (cf: P.L.1997, c.414, s.2)

23

24 3. This act shall take effect immediately and apply to taxable years
25 beginning on or after the January 1 next following enactment.

26

27

28

29

30 Allows self-employed to deduct health insurance costs from gross
31 income under the gross income tax.

SENATE, No. 1133

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)
Senator ANTHONY R. BUCCO
District 25 (Morris)

Co-Sponsored by:

Senators Kenny, Kyrillos and Allen

SYNOPSIS

Allows self-employed to deduct health insurance costs from gross income under the gross income tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/11/1998)

S1133 INVERSO, BUCCO

2

1 AN ACT allowing the self-employed to deduct health insurance costs
2 under the gross income tax, supplementing Title 54A of the New
3 Jersey Statutes and amending N.J.S.54A:3-3.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) A taxpayer who is a "self-employed individual"
9 within the meaning of clause (B) of paragraph (1) of subsection (c) of
10 section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.
11 s.401, shall be allowed to deduct from the taxpayer's gross income an
12 amount equal to the amount paid during the taxable year for insurance
13 which constitutes medical care for the taxpayer, the taxpayer's spouse,
14 and dependents; provided however, that the amount of such deduction
15 shall not exceed the taxpayer's "earned income," as defined pursuant
16 to subsection (c) of section 401 of the federal Internal Revenue Code
17 of 1986, 26 U.S.C.s.401, derived by the taxpayer from the trade or
18 business with respect to which the plan providing the medical care
19 coverage is established, and provided further that no deduction shall
20 be allowed for coverage of any month for which the taxpayer is
21 eligible to participate in any subsidized health plan maintained by any
22 employer of the taxpayer or of the spouse of the taxpayer.

23

24 2. N.J.S.54A:3-3 is amended to read as follows:

25 54A:3-3. Medical expenses. (a) Each taxpayer shall be allowed to
26 deduct from the taxpayer's gross income medical expenses for the
27 taxpayer, the taxpayer's spouse, and the taxpayer's dependents with
28 respect to such expenses that were paid during the taxable year and to
29 the extent that such medical expenses exceed 2% of the taxpayer's
30 gross income. In the case of a nonresident, gross income shall mean
31 gross income which such nonresident would have reported if the
32 taxpayer had been subject to tax during the entire taxable year as a
33 resident.

34 (b) Special Rule for Decedents.

35 (1) Treatment of expenses paid after death. Expenses for the
36 medical care of the taxpayer which are paid out of the taxpayer's
37 estate during the one-year period beginning with the day after the day
38 of the death shall be treated as paid by the taxpayer at the time
39 incurred.

40 (2) Limitation. Paragraph (1) shall not apply if the amount paid is
41 not allowable as a deduction in computing medical expense deductions
42 for federal income tax purposes.

43 (c) Disallowance of amounts allowed for other purposes.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (1) Any expenses allowed as a deduction of expenses for household
2 and dependent care services necessary for gainful employment shall
3 not be allowed as an expense paid for medical care for purposes of this
4 section.

5 (2) Any amounts paid or distributed out of a medical savings
6 account that are excluded from gross income pursuant to section 5 of
7 P.L.1997, c.414 (C.54A:6-27) shall not be allowed as an expense paid
8 for medical care for purposes of this section.

9 (3) Any amounts allowed as a deduction for the health insurance
10 costs of the self-employed pursuant to section 1 of P.L. _____, c. _____
11 (C. _____) (now pending before the Legislature as this bill) shall not be
12 allowed as an expense paid for medical care for purposes of this
13 section.

14 (cf: P.L.1997, c.414, s.2)

15

16 3. This act shall take effect immediately and apply to taxable years
17 beginning on or after the January 1 next following enactment.

18

19

20

STATEMENT

21

22 This bill allows the self-employed to deduct the cost of their health
23 insurance premiums under the New Jersey gross income tax.

24 Recent federal tax reforms have allowed the self-employed to
25 deduct an increasing percentage of the health insurance they provide
26 themselves from their federal taxable income. Employees of
27 corporations can exclude the costs of their employer-provided health
28 insurance from federal taxable income and from New Jersey gross
29 income.

30 This bill allows the self-employed to deduct all of the costs of the
31 health insurance they provide themselves from their New Jersey gross
32 income. This bill uses the same definitions of "self-employed
33 individual" and "earned income" as the federal Internal Revenue Code,
34 so that the same persons will qualify for the New Jersey deduction as
35 for the federal deduction and the deduction limits (measured by
36 income from self-employment) will be the same for New Jersey
37 purposes as for federal purposes. However, the amount deducted will
38 generally be greater for New Jersey tax purposes under the bill than
39 for federal purposes because the federal code allows only a percentage
40 of costs to be deducted while this bill allows deduction of all costs.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1133

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Appropriations Committee reports favorably Senate Bill No. 1133 with committee amendments.

Senate Bill No. 1133, as amended, allows the self-employed to deduct the cost of their health insurance premiums under the New Jersey gross income tax.

Recent federal tax reforms have allowed the self-employed to deduct an increasing percentage of the health insurance they provide themselves from their federal taxable income. Employees of corporations can exclude the costs of their employer-provided health insurance from federal taxable income and from New Jersey gross income.

This bill allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. The bill uses the same definitions of "self-employed individual" and "earned income" as the federal Internal Revenue Code, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes. The amount deducted, however, will generally be greater for New Jersey tax purposes under this bill than for federal tax purposes because the federal code allows only a percentage of health insurance costs to be deducted while this bill allows the deduction of all health insurance costs.

As amended and reported by this committee, this bill is identical to Assembly Bill Nos. 2124/2142 ACS as amended and reported by this committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) is unable to provide a precise estimate of the cost of this legislation. The OLS notes, however, that the amount deducted under the bill for New Jersey tax purposes will generally be greater than for federal purposes because the federal code allows only a percentage of costs to be deducted while this bill allows deduction of all costs. By proportionalizing revenue data prepared by the Joint Committee on Taxation of the U.

S. Congress for discussing the recent federal tax changes (Appendix to H.Conf.Rept. No. 105-220) and health care costs (JCX-26-98) to New Jersey on the basis of adjusted gross income of New Jersey residents, the estimated impact of the bill would be expected to be a gross income tax reduction of \$15 million annually beginning in State fiscal year 2000 if the income affected by the bill were the same as the income subject to the parallel federal provision. However, because less income will be subject to the bill than is subject to the federal law, the revenue impact should be less.

Currently, New Jersey allows a general deduction for unreimbursed medical expenses (including health insurance costs) that exceed 2 percent of gross income. The bill applies to the increment of insurance costs that is less than 2 percent of gross income. The federal Internal Revenue Code allows the deduction of the costs that exceed 7.5 percent of federal adjusted gross income. Because the New Jersey gross income tax already allows the deduction of more medical expenses than federal law, the incremental effect of the bill will be less than the incremental effect of the federal enactment, and the New Jersey revenue impact will be less than the proportionalized federal impact. The relationship between the 2 percent gross income tax threshold and the 7.5 percent federal threshold is not simple, and New Jersey data are not available to discount the revenue impact derived from federal information; however, because of the large percentage disparity in thresholds, the New Jersey gross income tax revenue decrease would be expected to be substantially less than \$15 million annually.

COMMITTEE AMENDMENTS:

The amendments add a federal statutory cross reference to assure that certain shareholders of Subchapter S corporations, who under federal law are classified as self-employed and are able to deduct their health insurance costs for federal purposes, are also able to deduct those costs for New Jersey purposes.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1133

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1998

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1133.

This bill allows the self-employed to deduct the cost of their health insurance premiums under the New Jersey gross income tax.

Currently, employees of corporations can exclude the entire cost of their employer-provided health insurance from federal taxable income and from New Jersey gross income. Recent federal tax legislation has allowed the self-employed to deduct a percentage of the health insurance they provide themselves from their federal taxable income; the percentage amount is 45% for taxable years beginning in 1998 and 1999, then rises to 100% full deductibility for tax years beginning in 2007 and thereafter, 26 U.S.C.s.162(l). Under New Jersey's income tax, however, the self-employed are allowed to deduct only the portion of their medical expenses that exceed 2% of their gross income.

This bill allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. The bill uses the same definitions of "self-employed individual" and "earned income" as the federal Internal Revenue Code, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes.

FISCAL IMPACT

The Office of Legislative Services (OLS) is unable to provide a precise estimate of the cost of this legislation. The OLS notes, however, that the amount deducted under the bill for New Jersey tax purposes will generally be greater than for federal purposes because the federal code allows only a percentage of costs to be deducted while this bill allows deduction of all costs. By proportionalizing revenue data prepared by the Joint Committee on Taxation of the U. S. Congress for discussing the recent federal tax changes (Appendix to H.Conf.Rept. No. 105-220) and health care costs (JCX-26-98) to New Jersey on the basis of adjusted gross income of New Jersey residents, the estimated impact of the bill would be expected to be a gross income tax reduction of \$15 million annually beginning in State

fiscal year 2000 if the income affected by the bill were the same as the income subject to the parallel federal provision. However, because less income will be subject to the bill than is subject to the federal law, the revenue impact should be less.

Currently, New Jersey allows a general deduction for unreimbursed medical expenses (including health insurance costs) that exceed 2 percent of gross income. The bill applies to the increment of insurance costs that is less than 2 percent of gross income. The federal Internal Revenue Code allows the deduction of the costs that exceed 7.5 percent of federal adjusted gross income. Because the New Jersey gross income tax already allows the deduction of more medical expenses than federal law, the incremental effect of the bill will be less than the incremental effect of the federal enactment, and the New Jersey revenue impact will be less than the proportionalized federal impact. The relationship between the 2 percent gross income tax threshold and the 7.5 percent federal threshold is not simple, and New Jersey data are not available to discount the revenue impact derived from federal information; however, because of the large percentage disparity in thresholds, the New Jersey gross income tax revenue decrease would be expected to be substantially less than \$15 million annually.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 1133

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: OCTOBER 8, 1998

Senate Bill No. 1133 of 1998 allows the self-employed to deduct the cost of their health insurance premiums from gross income otherwise taxable under the New Jersey gross income tax.

Recent federal tax reforms have allowed the self-employed to deduct an increasing percentage of the health insurance they provide themselves from their federal taxable income. The bill allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. This bill uses the same definitions of "self-employed individual" and "earned income" as are provided under section 162 of the federal Internal Revenue Code, 26 U.S.C. §162, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes. However, the amount deducted under the bill for New Jersey tax purposes will generally be greater than for federal purposes because the federal code allows only a percentage of costs to be deducted while this bill allows deduction of all costs.

By proportionalizing revenue data prepared by the Joint Committee on Taxation of the U. S. Congress for discussing the recent federal tax changes (Appendix to H.Conf.Rept. No. 105-220) and health care costs (JCX-26-98) to New Jersey on the basis of adjusted gross income of New Jersey residents, the estimated impact of the bill would be expected to be a gross income tax reduction of \$15 million annually beginning in State fiscal year 2000 if the income affected by the bill were the same as the income subject to the parallel federal provision. However, because less income will be subject to the bill than is subject to the federal law, the revenue impact should be less.

Currently, New Jersey allows a general deduction for unreimbursed medical expenses (including health insurance costs) that exceed 2 percent of gross income. The bill applies to the increment of insurance costs that is less than 2 percent of gross income. The federal Internal Revenue Code allows the deduction of the costs that exceed 7.5 percent of federal adjusted gross income. Because the New Jersey gross income tax already allows the deduction of more medical expenses than federal law, the incremental effect of the bill will be less

than the incremental effect of the federal enactment, and the New Jersey revenue impact will be less than the proportionalized federal impact. The relationship between the 2 percent gross income tax threshold and the 7.5 percent federal threshold is not simple, and New Jersey data are not available to discount the revenue impact derived from federal information; however, because of the large percentage disparity in thresholds, the New Jersey gross income tax revenue decrease would be expected to be substantially less than \$15 million annually.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2124

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 1, 1998

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Co-Sponsored by:

Assemblyman Cohen

SYNOPSIS

Allows self-employed to deduct health insurance costs from gross income under the gross income tax.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT allowing the self-employed to deduct health insurance costs
2 under the gross income tax, supplementing Title 54A of the New
3 Jersey Statutes and amending N.J.S.54A:3-3.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) A taxpayer who is a "self-employed individual"
9 within the meaning of clause (B) of paragraph (1) of subsection (c) of
10 section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.
11 s.401, shall be allowed to deduct from the taxpayer's gross income an
12 amount equal to the amount paid during the taxable year for insurance
13 which constitutes medical care for the taxpayer, the taxpayer's spouse,
14 and dependents; provided however, that the amount of such deduction
15 shall not exceed the taxpayer's "earned income," as defined pursuant
16 to subsection (c) of section 401 of the federal Internal Revenue Code
17 of 1986, 26 U.S.C. s.401, derived by the taxpayer from the trade or
18 business with respect to which the plan providing the medical care
19 coverage is established, and provided further that no deduction shall
20 be allowed for coverage of any month for which the taxpayer is
21 eligible to participate in any subsidized health plan maintained by any
22 employer of the taxpayer or of the spouse of the taxpayer.

23

24 2. N.J.S.54A:3-3 is amended to read as follows:

25 54A:3-3. Medical expenses. (a) Each taxpayer shall be allowed to
26 deduct from the taxpayer's gross income medical expenses for the
27 taxpayer, the taxpayer's spouse, and the taxpayer's dependents with
28 respect to such expenses that were paid during the taxable year and to
29 the extent that such medical expenses exceed 2% of the taxpayer's
30 gross income. In the case of a nonresident, gross income shall mean
31 gross income which such nonresident would have reported if the
32 taxpayer had been subject to tax during the entire taxable year as a
33 resident.

34 (b) Special Rule for Decedents.

35 (1) Treatment of expenses paid after death. Expenses for the
36 medical care of the taxpayer which are paid out of the taxpayer's
37 estate during the one-year period beginning with the day after the day
38 of the death shall be treated as paid by the taxpayer at the time
39 incurred.

40 (2) Limitation. Paragraph (1) shall not apply if the amount paid is
41 not allowable as a deduction in computing medical expense deductions
42 for federal income tax purposes.

43 (c) Disallowance of amounts allowed for other purposes.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2124 and 2142**

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Health Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2124 and 2142.

This committee substitute allows the self-employed to deduct the cost of their health insurance premiums under the New Jersey gross income tax.

Recent federal tax reforms have allowed the self-employed to deduct an increasing percentage of the health insurance they provide themselves from their federal taxable income. Employees of corporations can exclude the costs of their employer-provided health insurance from federal taxable income and from New Jersey gross income.

This substitute allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. The substitute uses the same definitions of "self-employed individual" and "earned income" as the federal Internal Revenue Code, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes. The amount deducted, however, will generally be greater for New Jersey tax purposes under this substitute than for federal tax purposes because the federal code allows only a percentage of health insurance costs to be deducted while this substitute allows the deduction of all health insurance costs.

This committee substitute is identical to Senate Bill No. 1133 (Inverso/Bucco), which is currently pending in the Senate Budget and Appropriations Committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2124 and 2142**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2124 (ACS) with committee amendments.

Assembly Bill Nos. 2124 and 2142 (ACS), as amended, allows the self-employed to deduct the cost of their health insurance premiums under the New Jersey gross income tax.

Recent federal tax reforms have allowed the self-employed to deduct an increasing percentage of the health insurance they provide themselves from their federal taxable income. Employees of corporations can exclude the costs of their employer-provided health insurance from federal taxable income and from New Jersey gross income.

This bill allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. The bill uses the same definitions of "self-employed individual" and "earned income" as the federal Internal Revenue Code, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes. The amount deducted, however, will generally be greater for New Jersey tax purposes under this bill than for federal tax purposes because the federal code allows only a percentage of health insurance costs to be deducted while this bill allows the deduction of all health insurance costs.

As amended and reported by this committee, this bill is identical to Senate Bill No. 1133 as amended and reported by this committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) is unable to provide a precise estimate of the cost of this legislation. The OLS notes, however, that the amount deducted under the bill for New Jersey tax purposes will generally be greater than for federal purposes because the federal code allows only a percentage of costs to be deducted while this bill allows deduction of all costs. By proportionalizing

revenue data prepared by the Joint Committee on Taxation of the U. S. Congress for discussing the recent federal tax changes (Appendix to H.Conf.Rept. No. 105-220) and health care costs (JCX-26-98) to New Jersey on the basis of adjusted gross income of New Jersey residents, the estimated impact of the bill would be expected to be a gross income tax reduction of \$15 million annually beginning in State fiscal year 2000 if the income affected by the bill were the same as the income subject to the parallel federal provision. However, because less income will be subject to the bill than is subject to the federal law, the revenue impact should be less.

Currently, New Jersey allows a general deduction for unreimbursed medical expenses (including health insurance costs) that exceed 2 percent of gross income. The bill applies to the increment of insurance costs that is less than 2 percent of gross income. The federal Internal Revenue Code allows the deduction of the costs that exceed 7.5 percent of federal adjusted gross income. Because the New Jersey gross income tax already allows the deduction of more medical expenses than federal law, the incremental effect of the bill will be less than the incremental effect of the federal enactment, and the New Jersey revenue impact will be less than the proportionalized federal impact. The relationship between the 2 percent gross income tax threshold and the 7.5 percent federal threshold is not simple, and New Jersey data are not available to discount the revenue impact derived from federal information; however, because of the large percentage disparity in thresholds, the New Jersey gross income tax revenue decrease would be expected to be substantially less than \$15 million annually.

COMMITTEE AMENDMENTS:

The amendments add a federal statutory cross reference to assure that certain shareholders of Subchapter S corporations, who under federal law are classified as self-employed and are able to deduct their health insurance costs for federal purposes, are also able to deduct those costs for New Jersey purposes.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 2124 and 2142 STATE OF NEW JERSEY 208th LEGISLATURE

DATED: NOVEMBER 17, 1998

Assembly Committee Substitute for Assembly Bill Nos. 2124 and 2142 of 1998 allows the self-employed to deduct the cost of their health insurance premiums from gross income otherwise taxable under the New Jersey gross income tax.

Recent federal tax reforms have allowed the self-employed to deduct an increasing percentage of the health insurance they provide themselves from their federal taxable income. The bill allows the self-employed to deduct all of the costs of the health insurance they provide themselves from their New Jersey gross income. This bill uses the same definitions of "self-employed individual" and "earned income" as are provided under section 162 of the federal Internal Revenue Code, 26 U.S.C. §162, so that the same persons will qualify for the New Jersey deduction as for the federal deduction and the deduction limits (measured by income from self-employment) will be the same for New Jersey purposes as for federal purposes. However, the amount deducted under the bill for New Jersey tax purposes will generally be greater than for federal purposes because the federal code allows only a percentage of costs to be deducted while this bill allows deduction of all costs.

By proportionalizing revenue data prepared by the Joint Committee on Taxation of the U. S. Congress for discussing the recent federal tax changes (Appendix to H.Conf.Rept. No. 105-220) and health care costs (JCX-26-98) to New Jersey on the basis of adjusted gross income of New Jersey residents, the estimated impact of the bill would be expected to be a gross income tax reduction of \$15 million annually beginning in State fiscal year 2000 if the income affected by the bill were the same as the income subject to the parallel federal provision. However, because less income will be subject to the bill than is subject to the federal law, the revenue impact should be less.

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federal Internal Revenue Code allows the deduction of the costs that exceed 7.5 percent of federal adjusted gross income. Because the New Jersey gross income tax already allows the deduction of more medical expenses than federal law, the incremental effect of the bill will be less than the incremental effect of the federal enactment, and the New Jersey revenue impact will be less than the proportionalized federal impact. The relationship between the 2 percent gross income tax threshold and the 7.5 percent federal threshold is not simple, and New Jersey data are not available to discount the revenue impact derived from federal information; however, because of the large percentage disparity in thresholds, the New Jersey gross income tax revenue decrease would be expected to be substantially less than \$15 million annually.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2124 and 2142

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED SEPTEMBER 14, 1998

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

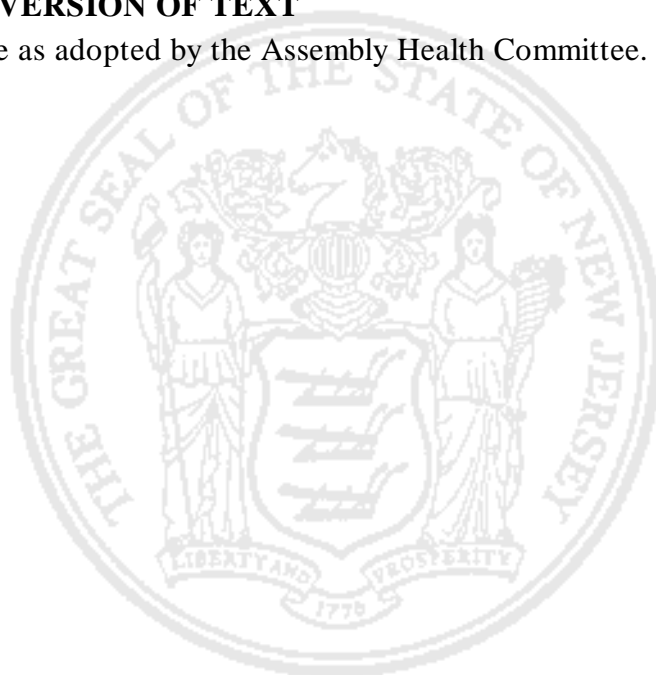
Assemblymen Garrett and LeFevre

SYNOPSIS

Allows self-employed to deduct health insurance costs from gross income under the gross income tax.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Health Committee.



(Sponsorship Updated As Of: 10/30/1998)

1 AN ACT allowing the self-employed to deduct health insurance costs
2 under the gross income tax, supplementing Title 54A of the New
3 Jersey Statutes and amending N.J.S.54A:3-3.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) A taxpayer who is a "self-employed individual"
9 within the meaning of clause (B) of paragraph (1) of subsection (c) of
10 section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.
11 s.401, shall be allowed to deduct from the taxpayer's gross income an
12 amount equal to the amount paid during the taxable year for insurance
13 which constitutes medical care for the taxpayer, the taxpayer's spouse,
14 and dependents; provided however, that the amount of such deduction
15 shall not exceed the taxpayer's "earned income," as defined pursuant
16 to subsection (c) of section 401 of the federal Internal Revenue Code
17 of 1986, 26 U.S.C. s.401, derived by the taxpayer from the trade or
18 business with respect to which the plan providing the medical care
19 coverage is established, and provided further that no deduction shall
20 be allowed for coverage of any month for which the taxpayer is
21 eligible to participate in any subsidized health plan maintained by any
22 employer of the taxpayer or of the spouse of the taxpayer.

23

24 2. N.J.S.54A:3-3 is amended to read as follows:

25 54A:3-3. Medical expenses. (a) Each taxpayer shall be allowed to
26 deduct from the taxpayer's gross income medical expenses for the
27 taxpayer, the taxpayer's spouse, and the taxpayer's dependents with
28 respect to such expenses that were paid during the taxable year and to
29 the extent that such medical expenses exceed 2% of the taxpayer's
30 gross income. In the case of a nonresident, gross income shall mean
31 gross income which such nonresident would have reported if the
32 taxpayer had been subject to tax during the entire taxable year as a
33 resident.

34 (b) Special Rule for Decedents.

35 (1) Treatment of expenses paid after death. Expenses for the
36 medical care of the taxpayer which are paid out of the taxpayer's estate
37 during the one-year period beginning with the day after the day of the
38 death shall be treated as paid by the taxpayer at the time incurred.

39 (2) Limitation. Paragraph (1) shall not apply if the amount paid
40 is not allowable as a deduction in computing medical expense
41 deductions for federal income tax purposes.

42 (c) Disallowance of amounts allowed for other purposes.

43 (1) Any expenses allowed as a deduction of expenses for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 household and dependent care services necessary for gainful
2 employment shall not be allowed as an expense paid for medical care
3 for purposes of this section.

4 ~~(2) Any amounts paid or distributed out of a medical savings~~
5 ~~account that are excluded from gross income pursuant to section 5 of~~
6 ~~P.L.1997, c.414 (C.54A:6-27) shall not be allowed as an expense paid~~
7 ~~for medical care for purposes of this section.~~

8 ~~(3) Any amounts allowed as a deduction for the health insurance~~
9 ~~costs of the self-employed pursuant to section 1 of P.L. _____, c.~~
10 ~~(C. _____) (now pending before the Legislature as this bill) shall not be~~
11 ~~allowed as an expense paid for medical care for purposes of this~~
12 ~~section.~~

13 (cf: P.L.1997, c.414, s.2)

14

15 3. This act shall take effect immediately and apply to taxable years
16 beginning on or after the January 1 next following enactment.

Office of the Governor
NEWS RELEASE

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RELEASE: September 22, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-1789, the New Jersey Homeless Youth Act, sponsored by Senators William L. Gormley (R-Atlantic) and Joseph F. Vitale (D-Middlesex) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), appropriates \$1 million to the Department of Human Services (DHS) to establish and support a comprehensive program for homeless youth. The Commissioner of the DHS will develop rules and regulations for the licensing of street outreach, basic center shelters and transitional living home programs.

Street outreach will enhance the homeless youth's accessibility to resources by locating, contacting and providing services to the youth through community-based, mobile outreach. Services may include assistance in finding shelter, food, clothing, medical care and counseling.

The basic center shelter program will provide a homeless youth with 24-hour, seven-day-a-week access to a stable out-of-home placement. Services may include family reunification, counseling, food, clothing, medical care, educational services and recreation. The shelter will help reunite the family unless it is not in the youth's best interest.

The transitional living home program will provide residential care and treatment services for up to 18 months to homeless youths between the ages of 16 and 21 who demonstrate the maturity to function with minimal adult supervision. The goal is to prepare the youth for independence and self-sufficiency. The legislation also eliminates the requirement in current law that prohibits homeless youths from obtaining emergency shelter without first obtaining either a court order or a guardian's permission.

S-160, sponsored by Senators Joseph M. Kyrillos, Jr. (R- Middlesex/Monmouth) and Joseph A. Palaia (R-Monmouth) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Steve Corodemus (R-Monmouth), authorizes certain federal law enforcement officers to make arrests for violations of New Jersey law. The bill expands the list of federal law enforcement officers authorized to make arrests when serious state crimes are committed or about to be committed in their presence to include the Department of the Interior special agents, investigators, park police and park rangers and the United States postal police. The power of postal police officers is limited to offenses occurring on postal property while they are on duty.

S-995, sponsored by the late Senator Wynona M. Lipman (D- Essex/Union) and Senator Ronald L. Rice (D-Essex) and Assembly Member William D. Payne (D-Essex/Union), allows for the extension of property tax exemptions for certain non-profit housing corporations beyond the 35 year limit set by the 1991 Long Term Tax Exemption Law. The bill applies only to limited-dividend and non-profit housing corporations. This bill would allow a municipality to extend the term of any such tax exemption to coincide with the term of the housing corporation's mortgage financing. The mortgage duration and the

terms of any such extension shall be set forth in an agreement between the developer of the housing corporation and the affected municipality.

S-1133, sponsored by Senators Peter A. Inverso (R- Mercer/Middlesex) and Anthony R. Bucco (R-Morris) and Assembly Members Charlotte Vandervalk (R-Bergen), Steve Corodemus (R-Monmouth) and Neil M. Cohen (D-Union), provides a tax deduction to self-employers for 100% of the cost of health insurance. Under previous law, self-employers were treated the same as individuals could only deduct premiums in excess of 2% of their income as medical expense. This will change the tax treatment for self-employers to make it analogous to corporations. Under the law, corporations may deduct 100% of the cost of providing employee health insurance from their corporate income for the purpose of calculating the Corporate Business Tax.

S-585, sponsored by Senator Bernard F. Kenny, Jr. (D-Hudson) and Assembly Members Raul "Rudy" Garcia (D-Hudson) and Nicholas R. Felice (R-Bergen/Passaic), makes religious organizations, fraternal organizations, and certain educational institutions eligible for funding from the New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987, in addition to non-profit cultural centers that are currently eligible.

S-1448, sponsored by Senator Diane B. Allen (R-Burlington/Camden) and Assembly Members Rose Marie Heck (R-Bergen) and Jerry Green (D- Middlesex/Somerset/Union), appropriates \$95,000 to establish a permanent Council on Gender Parity in Labor and Education with the State Employment and Training Commission. The new council will help ensure that federal and state gender equity initiatives are implemented effectively in communities, schools and public agencies.

S-1960, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Robert E. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members E. Scott Garrett (R-Sussex/Hunterdon/ Morris) and Guy R. Gregg (R- Sussex/Hunterdon/Morris), formalizes and makes permanent the municipal financial aid offset formula and program for the loss of property tax revenue as a result of the moratorium on the sale of watershed lands. For the last several years, the offset has been provided for through language inserted in the state annual Appropriations Act.

The amount of aid to be provided annually to every municipality where property is subject to the watershed moratorium is based on a formula of \$68.50 per acre of such lands in the municipality, to be adjusted annually by reference to the Consumer Price Index. The bill also appropriates \$3.4 million from the General Fund to the Department of Community Affairs for the purpose of providing watershed moratorium offset aid to qualifying municipalities for Fiscal Year 2000.

SCS for A-1983 and S-1237, sponsored by Assembly Members Francis J. Blee (R-Atlantic) and David W. Wolfe (R-Monmouth/Ocean) and Senators Wayne R. Bryant (D-Camden/Gloucester) and John J. Matheussen (R-Camden/Gloucester), creates the Higher Education Incentive Funding Program Act and appropriates \$5 million for state matching funds. The bill establishes within the Department of Treasury a program under which New Jersey's public and private institutions of higher education that receive substantial gifts of cash or marketable securities would qualify for state funds partially matching those gifts. The amount of matching funds payable would depend upon whether the gifts were endowment contributions or donations, and also upon the type of institution to which the gifts are made.

S-1074, sponsored by Senators Donald T. DiFrancesco (R- Middlesex/Morris/Somerset/Union) and Joseph M. Kyrillos, Jr. (R- Middlesex/Monmouth) and Assembly Members Joseph Azzolina (R- Middlesex/Monmouth) and Anthony Impreveduto (D-Bergen/Hudson, provides expanded sales and use tax exemptions for the film and video industry. Under current law, film production equipment including cameras, lighting equipment, sound recorders and film are exempt from the sales tax. This legislation expands the list to mirror those exempted in New York by exempting all products used and consumed directly and primarily in the production of a film. Newly tax exempt products include cars, lumber and supplies used in the production of a film. Tangible personal property incidental to the making of a film such as accommodations, prepared foods, and other products used by the film crew and actors and actresses would continue to be taxable.